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09/463,565	04/21/2001	Tatsuya Hashimoto	MAT-7886US 6486	
7590 10/31/2003			EXAMINER	
Lawrence E Ashery			WINTER, GENTLE E	
Ratner & Prestia			4271217	B - B - B - B - B - B - B - B - B - B -
Suite 301 One Westlakes Berwyn			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action 09/463,565	Advisory Action 09/463,665	•	Application No.	Applicant(s)	Ψ.
Examiner Gentle E. Winter -The MAILING DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 15 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. PERIOD FOR REPLY (check either a) or b)] a) The period for reply expires 2_months from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection. ONLY ORICKT HIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(i). Extension of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extense hatter on the date of the date for privations of time may be obtained under 37 CFR 1.136(b). The date on which the petition under 37 CFR 1.136(a) and the appropriate extense en under 37 CFR 1.17(a) is calculated from: (1) the expiration pixel of a standards and the corresponding amount of the fee. The appropriate extense en under 37 CFR 1.17(a) is calculated from: (1) the expiration pixel of the standards and the corresponding amount of the fee. The appropriate extense en under 37 CFR 1.17(a) is calculated from: (1) the expiration pixel of the state than three months after the mailing date of the final rejection, even if it into the date for privates of the final rejection and the corresponding amount of the fee. The appropriate extense even under 37 CFR 1.17(a) is calculated from: (1) the expiration pixel by the mailing date of the final rejection, even if it into the private and the corresponding amount of the final rejection and the corresponding amount of the final	Examiner Gentle E. Winter Gentle E. Winter Gentle E. Winter -The MAILING DATE of this communication appears on the cover sheet with the correspondence address - THE REPLY FILED 15 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either. (1) a timely filed amendment with places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. PERIOD FOR REPLY (Check either a) or b) The period for reply expires 2_months from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection. PERIOD FOR REPLY (Check either a) or b) The period for reply expires 2_months from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is late no event, however, will the statutory period for reply expire star than SIX MONTHS from the mailing date of the final rejection. ONLY OFICKY THIS BOX WINEEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(i). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extence under 37 CFR 1.17(a) is calculated from; (1) the expiration date of the stension and the corresponding amount of the fee. The appropriate extence under 37 CFR 1.17(a) is calculated from; (1) the expiration of the control of the stension of the mailing date of the final rejection. A notice of Appeal was filed on	Advisory Advisor			
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Continuation of 2. NOTE: Changing dependencies necessitates a new search, and adding new claims would necessitate new grounds of rejection.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argued: Carlson does not explicitly state on which side of the cathode the layer was coated.

However, for the layer to function as a separator, its intended purpose (column 3, lines 34-40), it must be coated onto the layer of cathode material, not onto aluminum surface of the opposite side of the aluminum foil substrate. Thus, "cathode coating layer" refers to the layer of cathode active material on the aluminum substrate. This conclusion is further supported by claim 62 In which the substrate and the cathode coating layer are separate elements of the claim. The boehmite sol is coated onto the cathode coating layer, not onto the substrate. See also, Carlson, column 9, lines 31-32 ("the separator is coated directly onto tile cathode layer").

Applicants' claims recite a layer on a surface on the electrode plate having thereon an oxide layer formed by boehmite treatment. In Carlson, the boehmite layer is on the cathode active material, not onto the aluminum substrate (electrode plate). Thus, this limitation of applicants' claims is not met. For this reason, the rejection of claim 1 as anticipated by Carlson should be withdrawn.

It is noted that claim 1 is directed to an apparatus. Structural limitations are where patentability resides in apparatus claims. That a particular substrate is to be used as a cathode, or which side of the cathode is coated is relevant only to the extent that the same imparts structure. Applicant has provided a definition of "electrode active material" but has not placed the definition in the claim. What is the "chemically reactive material in either of the electrodes that participates in the charge and discharge reactions."? Or would Applicant prefer "Ān energy-storing material, such as lead oxide, used implates of a storage-battery."? Why is Applicants' definition of "electrode active layer" superior to the definition provided by the Office, and taken from the Nikaido patent?

In support of this rejection, the Office also asserts, without support, that "aluminum inherently forms an oxide layer." Paper 13, page 4, lines 1-2. While the surface of aluminum metal may form a thin film of aluminum oxide under ambient conditions, Applicants' claim 1 does not recite an oxide layer. Applicants' claim 1 recites an "oxide layer being formed by applying a boehmite treatment to the electrode plate surface," i.e., a layer of boehmite (hydrated aluminum oxide),

The Office has neither asserted nor provided any evidence that a layer of hydrated aluminum oxide forms on an aluminum surface under ambient conditions. Further, claims 3 and 4 each recite a thickness range for the boehmite layer. The Office has neither asserted nor provided any evidence that the thickness any layer of aluminum oxide that may form on an aluminum surface under ambient conditions falls within the thickness range recited by these claims. The Office is respectfully requested to provide such evidence or it will be concluded that none exists.

Notwithstanding the above arguments, hydrated aluminum oxide is not what is claimed. Rather "oxide" is what is claimed. Applicants' arguments are drawn to limitations not in the claims.

With respect to statements to the effect of "[T]he Office is respectfully requested to provide such evidence or it will be concluded that non exists." Applicants' are always free to draw conclusions. Facts are not diminished or enhanced by drawing conclusions. This Examiner relies on the prosecution history, including all the references, and the facts which are therein. It is noted that Applicants' have not taken the position that oxide does not from on aluminum when the same is exposed to air. More specifically, as to claim 3, disclosing that the oxide layer has a thickness of 0.5 microns-5 microns. The boehmite layer is disclosed to have a range of 1-25 and 5-15 microns, thus covering most of the claimed range. See e.g. column 4, lines 3-9.

The balance of the argments are fully addressed in the prior Official actions.

RANDY GULAKOWSKI SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 1700